

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

DERRICK GADSDEN,	)	
	)	
Petitioner,	)	
	)	
v.	)	CASE NO. 2:17-CV-58-WKW
	)	[WO]
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

On February 7, 2023, the Magistrate Judge filed a Recommendation. (Doc. # 51.) The Magistrate Judge finds that Petitioner's Rule 60(b)(6) motion (Doc. # 45) is a disguised, successive 28 U.S.C. § 2255 motion, which Petitioner filed without the required appellate court authorization, and recommends that the Rule 60(b)(6) motion be dismissed for lack of subject matter jurisdiction.

Based upon an independent review of the record, it is ORDERED as follows:

- (1) The Recommendation (Doc. # 51) is ADOPTED;
- (3) Petitioner's Rule 60(b)(6) motion (Doc. # 45) is DISMISSED without prejudice for lack of subject matter jurisdiction; and
- (4) This case remains closed.

Final judgment will be entered separately. Petitioner is not required to obtain a certificate of appealability to appeal the final judgment, should he desire to do so,

because it is not “a final order in a habeas corpus proceeding” within the meaning of 28 U.S.C. § 2253(c). *Hubbard v. Campbell*, 379 F.3d 1245, 1247 (11th Cir. 2004) (quoting § 2253(c)).

DONE this 10th day of March, 2023.

/s/ W. Keith Watkins

UNITED STATES DISTRICT JUDGE